

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

IN RE:

**FIRED UP, INC.
DEBTOR¹**

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**CASE NO. 14-10447-tmd
(Chapter 11)**

**OBJECTION TO APPLICATION FOR APPROVAL OF EMPLOYMENT OF
PACHULSKI STANG ZIEHL & JONES LLP AS COUNSEL FOR THE OFFICIAL
COMMITTEE OF UNSECURED CREDITORS EFFECTIVE AS OF APRIL 8, 2014**

TO THE HONORABLE JUDGE OF SAID COURT:

Fired Up, Inc. (the "Debtor") hereby files this Objection to Application for Approval of Employment of Pachulski Stang Ziehl & Jones LLP as Counsel for the Official Committee of Unsecured Creditors Effective As of April 8, 2014.

1. The Official Committee of Unsecured Creditors has filed three applications to employ professionals as follows:

Professional	Position	Hourly Rates (not including paraprofessionals)
Pachulski Stang Ziehl & Jones, LLP	Counsel for Official Committee of Unsecured Creditors	\$475-775/hr.
Streusand, Landon & Ozburn, LLP	Local Counsel for Official Committee of Unsecured Creditors	\$325-440/hr
FTI Consulting, Inc.	Financial Advisor for the Official Committee of Unsecured Creditors	\$300-\$925/hr.

¹ Until February 26, 2014, Debtor's business was being operated partially by the Debtor and partially by its two wholly owned subsidiaries, Kona Restaurant Group, Inc. and Carino's Italian Kitchen, Inc. Those entities were merged into the Debtor on that date.

2. The Application should be denied for the reason that the Committee has not established cause for employing two sets of lawyers. While the Committee is entitled to retain counsel, and either attorney sought to be retained by the Committee would be qualified to handle the representation, the Committee should not be able to burden the estate with two sets of professionals absent a showing that this arrangement will reduce the ultimate amount charged to the estate.

3. The rates sought to be charged by the Committee's attorneys far exceed the market rate for professionals of similar experience and capability in Austin, Texas. The following chart compares the rates charged by the bankruptcy attorneys in this case with their experience (in descending order according to rates charged):

Attorney	Firm	Rate	Years' Experience
Bradford J. Sandler	Pachulski Stang	\$775.00	19
Joshua M. Fried	Pachulski Stang	\$725.00	19
Peter Keane	Pachulski Stang	\$475.00	6
Sabrina Streusand	Streusand Landon	\$440.00	31
Barbara Barron	Barron & Newburger	\$425.00	30+
Stephen W. Sather	Barron & Newburger	\$425.00	27
G. James Landon	Streusand Landon	\$390.00	17
Seth Meisel	Streusand Landon	\$325.00	12
Lynn Saarinen	Barron & Newburger	\$275.00	30

Of the nine attorneys who may appear in this case, the three most expensive are all with Pachulski Stang despite the fact that they are not the most experienced. Indeed, Mr. Keane is the *least* experienced attorney in the case and still commands a *premium* rate in excess of every attorney not with his firm. *Every dollar paid to professionals reduces the funds available to the unsecured creditors.* The rates charged by the proposed Committee counsel are compounded by the fact that employment is sought under 11 U.S.C. §328(a). If employment is approved on this

basis, the Court may not reconsider the rates being sought unless its approval was “improvident in light of developments not capable of being anticipated at the time of the fixing of such terms and conditions.” As a result, employment should be denied under section 328(a) and the Committee should require its attorneys to reduce their rates to market or find a less expensive firm.

4. The application should not be approved until the firm provides a complete conflicts check. According to the application, the firm’s conflicts check was limited to the Debtor, the Debtor’s interest holders, the Debtor’s known directors and officers, the Debtor’s known secured creditors, the Debtor’s professionals, the members of the committee and the Debtor’s 20 largest unsecured creditors. Fed.R.Bankr.P. 2014(a) requires the applicant to disclose *all* known connections with “creditors,” not just some creditors. Additionally, the firm does not disclose its connections with professionals hired in the case other than Barron & Newburger, P.C. This is not a hypothetical issue but a real one in this case: upon information and belief, Pachulski Stang was sought to engage FTI Consulting on multiple occasions to work for committees which it represents.

WHEREFORE, PREMISES CONSIDERED, Debtor prays that the Court deny or approve on conditions the Application to Authorize Employment of Pachulski Stang Ziehl and Jones, LLP and for such other and further relief, at law and in equity to which it may be entitled.

Respectfully Submitted,

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By: /s/ Stephen W. Sather
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PROPOSED ATTORNEYS FOR DEBTOR

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Motion was served on the 14th day of May, 2014, by email transmission to all the parties on the Sixth Limited Master Service List attached hereto. Copies of the matrix are not included in the copies served by United States Mail but may be obtained from the Clerk of the Court or Debtor's counsel.

/s/Stephen W. Sather

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